



Australian Government

SCREEN
AUSTRALIA

HUMAN RESOURCES POLICY AND GUIDELINES

Policy No:	2010/18HR	Subject:	Conflict of Interest Policy
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Summary of Policy: This policy contains: <ul style="list-style-type: none"><input type="checkbox"/> The Screen Australia framework for identifying and dealing with conflict of interest.<input type="checkbox"/> Conflict of interest Declaration forms for both new and existing staff and contractors.			
Staff Affected: All Screen Australia employees and contractors			
Contact Officer(s): Manager, Human Resources ph 8113 1007			
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CONFLICT OF INTEREST POLICY

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DEFINITIONS

“Associated Entity” means any of:

- (i) the partner or a family member of an Employee or Contractor;
- (ii) any partnership of which an Employee or Contractor (or a partner or family member) is a member;
- (iii) any corporation in which an Employee or Contractor (or a partner or family member) is a director or owns or controls twenty-five percent (25%) or more of the issued shares.

“Contractor” means a person undertaking services for Screen Australia subject to a written contract, who is not an employee of Screen Australia, and not an employee of a labour hire agency contracted by Screen Australia.

“Employee” means a person employed by Screen Australia under either the Screen Australia Act 2008 or the Public Service Act 1999, or who is an employee of a labour hire agency contracted by Screen Australia.

“Head of Department” means any of the following: the Head of Screen Australia’s Marketing, Indigenous, Development, or Production Investment Department, the Manager, Documentary Unit, the Senior Manager State and Industry Partnerships, General Counsel, and Executive Director Strategy and Operations.

1. INTRODUCTION

This policy is divided into three parts. The first part (**“A”**) applies to both Employees and Contractors, and provides general guidance on conflict of interest. The second part (**“B”**) applies to Employees only, and describes Employees’ duties under this policy. The third part (**“C”**) applies to Contractors only, and describes their duties under this policy.

PART A – FOR BOTH EMPLOYEES AND CONTRACTORS

2. POLICY INTENT AND SCREEN AUSTRALIA’S EXPECTATIONS OF YOU

Identifying and dealing with conflicts of interest is an integral part of establishing an ethical culture at Screen Australia. Screen Australia recognises that individuals hold a range of legitimate interests outside the immediate workplace. It is the responsibility of Employees and Contractors to ensure that these interests do not create a conflict of interest or a perception of a conflict of interest.

Two important points underlying this policy are as follows:

- If you are unsure whether there is a conflict of interest, it is in all instances preferable to declare it. This will protect you, the organisation and the public.
- When considering whether a conflict of interest exists, consider the situation from the standpoint of an outsider. If it is likely that a reasonable outsider would consider that a conflict exists, you should act as though a conflict does exist.

It is Screen Australia policy that all Employees and Contractors must remain independent, impartial and unbiased when performing their duties. To ensure that the community perceives you as impartial, effective and fair, you must ensure that your interests and obligations do not conflict, and do not appear to conflict, with your responsibilities as an Employee or Contractor. Your interests may be of a personal or financial nature, and may extend to interests of persons related or associated with you. It is for this reason that this policy refers to Associated Entities. You must disclose any conflict of interest in a timely way and take reasonable action as directed by Screen Australia to deal with any conflict. Disclosing a possible conflict as soon as you become aware of it means that the issue can be dealt with at an early stage and you are not exposed to criticism or disciplinary action.

Each Employee and Contractor is required to familiarise themselves with, and act in accordance with, the contents of this policy. This policy should be read in conjunction with other relevant Screen Australia policies and requirements, including those relating to disclosure of gifts and hospitality and to the use of confidential information.

3. WHAT DO WE MEAN BY A CONFLICT OF INTEREST?

A conflict of interest can:

- i) Be actual (i.e. there is an obvious or demonstrable conflict of interest) or perceived (i.e. an onlooker may reasonably assume there is a conflict);
- ii) Be based on personal and/or financial matters; and/or
- iii) Arise from the interests of persons or entities related to or associated with you;
- iv) Arise from duties which you owe to persons or entities other than Screen Australia.

An Employee or Contractor has a conflict of interest when he/she is in a position of authority which requires him/her to exercise judgment or make decisions, or to participate in a body such as a committee which makes decisions, on behalf of Screen Australia and also has (personal, financial or other) interests or obligations that might interfere with or influence the exercise of his or her judgment.

A clear example of a conflict of interest is where an Employee's or Contractor's position or authority may be used to influence or make decisions that lead to any form of financial or personal gain for the Employee or Contractor, or for an Associated Entity.

4. EXAMPLES OF CONFLICT OF INTEREST SITUATIONS

4.1 Financial interests

Financial interests may cover such things as directorships, share holdings, real estate or trusts that have the potential to conflict with official duties.

An example of this type of conflict could be where an Employee or Contractor (or Associated Entity) holds shares in a private company and his or her duties require decisions which could result in benefits or concessions for that company. Where this situation arises, the Employee or Contractor should advise the relevant Head of Department and withdraw from the decision making process in regard to decisions concerning the company in which the Employee or Contractor (or Associated Entity) has an interest.

4.2 Personal and other interests

Personal and other interests may arise from social or cultural activities as well as from family, personal or other relationships.

In carrying out their duties Screen Australia Employees and Contractors should not allow themselves to be improperly influenced by family or other personal

relationships. For example, situations may arise where a decision has to be made by the Employee or Contractor and that decision would directly affect a person who has a personal relationship with the decision maker. In these cases Employees and Contractors should declare the conflict and refer the matter to the relevant Head of Department.

4.3 Access to information, assessing applications for funding

You must not use your position as an Employee or Contractor to gain access to information or to influence a decision making process inappropriately (for example by speeding up that process or drawing attention to an application).

If a person undertaking an assessment of a funding application for Screen Australia, whether as a committee member, reader or other assessor, has an interest such that a reasonable observer could reasonably conclude that the interest could affect the assessment, the person must disclose the interest.

4.4 Assessment and Investment Committee meetings

A conflict of interest may need to be disclosed before a relevant meeting takes place, in which case the Employee or Contractor should provide details of the possible conflict to the chair of the meeting. The chair of the meeting may decide that the Employee or Contractor will receive no information about relevant decisions, and will not be allowed to sit in on meetings where relevant funding decisions/discussions are being made/held.

The following procedures should be followed by Assessment or Investment Committees:

1. Committees which deal with matters where conflicts of interest can arise must have a standing agenda item calling for declarations of potential conflicts of interest. This does not preclude the disclosure of an interest at any stage in proceedings.
2. If a declaration is made the committee must consider the relevant circumstances including the seriousness of the conflict, the risk of a perception that a conflict exists, the likelihood that decisions may be influenced, and the ability to obtain alternative suitable representation on the committee.
3. The committee's response to a declaration may include to:
 - determine that the issue will not affect, or be reasonably perceived to affect, the functioning of the committee;
 - require the affected individual to take all reasonable steps to remove the conflict;
 - require the affected individual to withdraw from all or a part of the meeting; or
 - require that the individual stand down from the committee.
4. A committee member may be unwilling to discuss the details giving rise

to a conflict, and this should be respected. In such a case the committee should be informed that a conflict may exist and the member must withdraw from the meeting for any item that is affected by the conflict. Alternatively, the member may choose to, or be required to, stand down from the committee.

5. The minutes should record that a conflict of interest was disclosed and the name of the committee member making the disclosure. Normally there will be no requirement to record the details of the conflict. In all cases the response to a disclosure should be recorded, eg 'Person left the meeting for this item'.

4.5 Appointment to a Board of a Screen Australia-funded organisation

You must advise the Manager Human Resources if you are currently serving a term on the board of a Screen Australia-funded organisation. (see further Part B, paragraph 8.4)

5. MANAGING CONFLICT OF INTEREST SITUATIONS

5.1 New employees and contractors

Each new Employee and Contractor will, at the time of their appointment, be required to provide Screen Australia (Human Resources Unit) with a signed declaration in the form of Attachment A. In addition, during the recruitment process, Screen Australia may seek information about conflicts of interests from applicants.

Current Employees and Contractors who are or become members of assessment committees and current Employees who are at or above SES 1 Level must provide Screen Australia (the relevant Head of Department) with a signed declaration in the form of Attachment B.

It is the responsibility of all Employees and Contractors who have signed declarations in the form of Attachment A and/or Attachment B to notify the relevant Head of Department promptly upon becoming aware of any material change of circumstance relevant to their declaration.

All Employees and Contractors must disclose, and take reasonable steps to avoid, any conflict of interest in connection with their duties or the services they perform for Screen Australia. It is the responsibility of Employees and Contractors to advise their Head of Department of an actual or potential conflict of interest at the earliest possible opportunity. This includes conflicts of interest which arise in connection with an Associated Entity. Employees and Contractors must declare any financial or non-financial interests which are relevant to their capacity or function as an Employee or Contractor of Screen Australia.

PART B – EMPLOYEES

6. STATUTORY REQUIREMENTS

Relevant statutory requirements relating to conflicts of interest are outlined below:

- Section 10 of the *Public Service Act 1999* requires that the Australian Public Service perform its functions in an impartial and professional manner;
- Paragraph (7) of the APS Code of Conduct requires that an APS employee must disclose and take reasonable steps to avoid any conflict of interest (real or perceived) in connection with APS employment (section 13(7) of the *Public Service Act 1999*);
- Clause 24 of the *Commonwealth Authorities and Companies Act 1997* (CAC Act) requires that officers and employees of a Commonwealth authority must not improperly use their position to advantage themselves or another person.
- Clause 25 of the CAC Act requires that officers and employees of a Commonwealth authority must not improperly use information obtained through their position to advantage themselves or another person.
- Under Clause 26 of the CAC Act it is an offence for an officer or employee of a Commonwealth authority to use her/his position or information dishonestly to advantage themselves or another person.

7. FURTHER EXAMPLES OF CONFLICT OF INTEREST SITUATIONS

7.1 Personal and other interests

See also 4.2 above.

In the case of a close personal relationship (be it part of a family or not) within a work group, it may be desirable for one party to move to another work area. While it is not uncommon or wrong for couples or family members to be working in the same agency, it is not usually appropriate for one to have line responsibility over another. It is important that other Employees feel able to raise with more senior managers any concerns about perceptions of conflict of interest resulting from close personal relationships (be it part of a family or not) working in the one agency.

7.2 Procurement of goods and services

Employees should ensure fair and ethical conduct in the procurement process and not allow any conflict, actual or perceived, between their duties as employees and their private interests. Dealings with suppliers should at all times be honest, fair and even-handed.

An employee's behaviour in an official capacity should not give the impression that he or she has been influenced by a gift or consideration to show favour or disfavour to any person or organisation. Employees must comply with Screen Australia's policies in relation to the disclosure of hospitality and gifts.

Employees should ensure that the confidentiality of commercially sensitive material relating to suppliers or other third parties with whom Screen Australia does business is maintained.

Employees should not approve purchase orders or petty cash claims that are payable to themselves or to an Associated Entity.

7.3 Applications for funding

Except in exceptional circumstances, Employees are not permitted to apply for funding from Screen Australia. An example of an exceptional circumstance which could arise may be where an Employee has a script in development which is accepted into a prestigious international workshop. The Employee may seek Screen Australia funding to enable her/him to participate in the workshop where Screen Australia has a program supporting workshop participants. In these circumstances, it will be for the Head of Department and the Chief Executive Officer to decide whether the Employee should be funded. Any decision to fund in those circumstances will be based on merit and the published program guidelines. Where funded, the Employee will be granted leave without pay for the period they receive the funding and to attend the workshop.

Employees must advise the relevant Head of Department on finding out that any Associated Entity has applied for or is in receipt of funding from Screen Australia. Employees must also inform the relevant Head of Department if they are involved in a professional or other material capacity in a project or organisation funded by Screen Australia.

7.4 Appointment to a Board of a Screen Australia-funded organisation

See also 4.5 above.

Screen Australia will not prevent new Employees completing the term of their existing appointment to the Board of a funded organisation. However, they will not be permitted to seek renewal of their term.

7.5 Accessing and using information

Employees must not access confidential information held by Screen Australia on matters that are unrelated to their normal duties and responsibilities.

Accessing material that is confidential or highly sensitive and not related to their normal work may give rise to a perception that the Employee is accessing material for personal or other inappropriate purposes. If Employees legitimately require access to confidential or sensitive information outside their normal area of work, Employees must first check with the appropriate Head of Department.

8. HEADS OF DEPARTMENT

It is the responsibility of Heads of Departments to:

- (a) Ensure that Employees are aware of their obligations in identifying and managing conflicts of interest, and potential conflicts of interest;
- (b) Upon receiving a disclosure of a conflict or possible conflict, appropriately investigate the nature and extent of the conflict;
- (c) Having determined that there is, or could be, a conflict of interest, make recommendations to the Chief Executive Officer (or, as appropriate, to the Assessment/Investment Committee Chairperson) to address the situation. Any such recommendation could include that:
 - The Employee continue in his or her duties;
 - The Employee be directed to divest him or herself of an interest/obligation;
 - The Employee's duties be rearranged;
 - The Employee be reassigned to an equivalent position with duties involving no such actual or potential conflict of interests.

9. FAILURE TO COMPLY

Failure to comply with this policy by an Employee will result in a breach of the Code of Conduct and disciplinary action will be taken against the Employee.

PART C – CONTRACTORS ONLY

10. CONTRACTORS

A Contractor must immediately advise the relevant Head of Department on becoming aware that:

- i. a project in which s/he, or an Associated Entity, has an interest has applied for Screen Australia funding or is in receipt of Screen Australia funding;
- ii. a project or organisation for which the Contractor or an Associated Entity provides or has agreed to provide professional services has applied for, or is in receipt of, Screen Australia funding.

Contractors other than casual assessors and their Associated Entities may not accept any professional engagement or position or provide any service in relation to a project on which they have performed services for Screen Australia until the later of:

- i. the expiry of six (6) months from the date of the Contractor's last involvement with that project in any capacity; and
- ii. the date on which the Contractor's engagement by Screen Australia is terminated.

By 'casual assessors' we mean Contractors who are not on a retainer with Screen Australia and who provide services for Screen Australia on an ad hoc basis.

10.1 Contractors' responsibility

See also 5.1 above.

Contractors must not access confidential information on matters that are unrelated to their normal duties and responsibilities for Screen Australia. Accessing material that is confidential or highly sensitive and not related to their normal work may give rise to a perception that they are accessing material for personal or other inappropriate purposes. If Contractors legitimately require access to confidential or sensitive information outside their normal area of work, they must first check with the appropriate Head of Department.

Heads of Department dealing with Contractors must ensure that:

- Contractors are aware of and understand this policy;
- Each Contractor performs the duties for which he/she is contracted in a proper and appropriate manner;
- conflicts of interest are disclosed by the Contractors and assessed, resolved and managed appropriately by Screen Australia.

ATTACHMENT A

For new Employees or Contractors

CONFLICT OF INTEREST POLICY DECLARATION

1. I am a director (or alternate director) of the following screen industry-related organisations:

2. Have you applied for Screen Australia funding or are you in receipt of funding from Screen Australia

Yes/No (Please circle)

3. Has any *Associated Entity applied for funding or is any Associated Entity in receipt of funding from Screen Australia?

Yes/No (Please circle)

4. If you have answered yes to either or both of the above, please specify funding applicant/recipient name, project title, type of funding and, if known, the Officer who is handling your project:

5. Neither I, nor any of my *Associated Entities, has any professional or other material interest or *involvement in any project which is in receipt of Screen Australia funding, or which is currently an applicant for Screen Australia funding, other than as indicated below.

*In this Declaration, the term “Associated Entity” means: any of:

- i. the partner or a family member of an Employee or Contractor;
- ii. any partnership of which an Employee or Contractor (or a partner or family member) is a member;
- iii. any corporation in which an Employee or Contractor (or a partner or family member) is a director or owns or controls twenty-five percent (25%) or more of the issued shares.

*In this Declaration, the term “involvement” includes the provision of any professional services.

I have read and understood Screen Australia’s conflict of interest policy. To the best of my knowledge and belief, the information I have provided above is true and complete:

Name: _____

Signature: _____ Date: _____

Witness Name: _____

Signature: _____ Date: _____

(Please return this form to the Manager Human Resources)

ATTACHMENT B

**For existing Contractors and Employees on Assessment/ Investment Committees
and for existing Employees at or above SES level**

CONFLICT OF INTEREST POLICY DECLARATION

1. I am a director (or alternate director) of the following screen industry-related organisations:

2. Neither I, nor any of my *Associated Entities, has any professional or other material interest or involvement in any project which is in receipt of Screen Australia funding, or which is currently an applicant for Screen Australia funding, other than as indicated below:

*In this Declaration, the term “Associated Entity” means: any of:

- i. the partner or a family member of an Employee or Contractor;
- ii. any partnership of which an Employee or Contractor (or a partner or family member) is a member;
- iii. any corporation in which an Employee or Contractor (or a partner or family member) is a director or owns or controls twenty-five percent (25%) or more of the issued shares.

*In this Declaration, the term “involvement” includes the provision of any professional services.

I have read and understood Screen Australia’s conflict of interest policy. To the best of my knowledge and belief, the information I have provided above is true and complete:

Name: _____

Signature: _____ Date: _____

Witness Name: _____

Signature: _____ Date: _____

(Please return this form to the Manager Human Resources or the relevant Head of Department)